



6712-01

FEDERAL COMMUNICATIONS COMMISSION

[FRS 17006]

Privacy Act of 1974; System of Records.

AGENCY: Federal Communications Commission.

ACTION: Notice of a modified system of records.

SUMMARY: The Federal Communications Commission (FCC or Commission or Agency) has transferred (within the FCC), renamed, and modified an existing system of records, FCC/OMD-31, Private or Civil Injury Claimants (formerly FCC/OGC-6, Private or Civil Injury Claimants), subject to the Privacy Act of 1974, as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records maintained by the Agency. Staff in the Office of the Managing Director (OMD) and the Office of General Counsel (OGC) use the personally identifiable information (PII) in this system for purposes that include, but are not limited to, determining whether a damage claim filed against the FCC should be paid and for reference purposes when similar cases arise. As necessary, the records may be transferred to the appropriate Federal agency charged with the responsibility of disposition.

DATES: This action will become effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Written comments on the system's routine uses are due by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The routine uses in this action will become effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, unless written comments are received that require a contrary determination.

ADDRESSES: Send comments to Leslie F. Smith, Privacy Manager, Information Technology (IT), Federal Communications Commission (FCC), Washington, D.C. 20554, or to Leslie.Smith@fcc.gov or Privacy@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Leslie F. Smith, (202) 418-0217, or

Leslie.Smith@fcc.gov or *Privacy@fcc.gov* (and to obtain a copy of the Narrative Statement and the Supplementary Document, which includes details of the modifications to this system of records).

SUPPLEMENTARY INFORMATION: FCC/OMD-31 helps the FCC to determine whether a damage claim filed against the FCC should be paid and for reference purposes when similar cases arise. This notice serves to update and modify FCC/OMD-31 to reflect various necessary changes and updates, including an increased use of information technology, the expansion of the system's coverage of issues related to torts, and format changes required by OMB Circular A-108, since its previous publication. The substantive changes and modifications to the previously published version of the FCC/OMD-31 (formerly: FCC/OGC-6, Private or Civil Injury Claimants) system of records include:

1. Changing the name of the system of records to FCC/OMD-31, Private or Civil Injury Claimants, to note that this system is being transferred to the FCC's Office of the Managing Director. Both the Office of the Managing Director and the Office of General Counsel are the joint managers for this system of records. The joint management of this SORN is also reflected in the information in the System Manager's section.
2. Updating the Security Classification to follow OMB guidance and FCC guidance.
3. Adding 28 U.S.C. 1346(b), 1402(b), 2401(b), 2671 et seq., 31 U.S.C. 3711; and Military Personnel and Civilian Employees' Claims Act, 31 U.S.C. 3721, to the Authorities for Maintenance of the System as part of the necessary updates to the system to add military and civilian employees to the groups who are private or civil injury claimants.
4. Modifying the Purposes, Categories of Individuals, and Categories of Records to add military and civilian employees to those individuals who are private or civil injury claimants.
5. Deleting routine use (1) Public Access, since releases under the FOIA are covered by 5 U.S.C. 552a(b)(2), so a separate routine use for them is not needed.
6. Updating language and/or renumbering four routine uses: (1) Adjudication and Litigation; (2) Law Enforcement and Investigation; (3) Congressional Inquiries; and (4) Government-wide Program Management and Oversight.

7. Adding four new routine uses: (5) Breach Notification to address real or suspected data breach situations at the FCC; (6) Assistance to Federal Agencies and Entities to allow the FCC to provide assistance to other Federal agencies in their data breach situations; (7) For Non-Federal Personnel to allow contractors performing or working on a contract for the Federal Government access to this system's information; and (8) Non-FCC Individuals and Organizations to provide information to individuals and organizations as necessary to obtain information related to an investigation. Routine Uses (5) and (6) are required by OMB Memorandum 17-12.
8. Adding two new sections: Reporting to a Consumer Reporting Agency to address valid and overdue debts owed by individuals to the FCC under the Debt Collection Act, as recommended by OMB; and History to reference the previous publication of this SORN in the **Federal Register**, as required by OMB Circular A-108.

The system of records is also updated to reflect various administrative changes related to policy and practices for storage, retrieval, and retention and disposal of the records; administrative, technical, and physical safeguards; and updated notification, records access, and contesting records procedures.

SYSTEM NAME AND NUMBER:

FCC/OMD-31, Private or Civil Injury Claimants.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of the Managing Director (OMD) and Office of General Counsel (OGC), Federal Communications Commission, Washington, D.C. 20554.

SYSTEM MANAGER(S):

Office of the Managing Director (OMD) and Office of General Counsel (OGC), Federal Communications Commission (FCC), Washington, D.C. 20554.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 U.S.C. 1346(b), 1402(b), 2401(b), 2671 et seq.; 31 U.S.C. 3711; Military Personnel and Civilian

Employees' Claims Act, 31 U.S.C. 3721.

PURPOSE(S) OF THE SYSTEM:

Staff in OMD and OGC use information in the system's records for purposes that include, but are not limited to, determining whether the damage claim(s) (including claims filed by military personnel and civilian employees) filed against the FCC should be paid and for reference purposes when similar cases arise.¹ As necessary, the records may be transferred to the appropriate Federal agency charged with the responsibility of disposition.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals in this system include, but are not limited to, any individuals who are claimants under the Federal Tort Claims Act (FTCA), or the Military Personnel and Civilian Employees' Claims Act, or who assert a tort claim against an FCC employee.²

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in this system of records includes, but is not limited to, claims and supporting documentation (i.e., SF 95, Claim for Damage, Injury or Death), accident and incident reports, witness statements, tort claim vouchers, correspondence, memoranda, medical bills and payment receipts, repair and payment estimates and receipts, and pictures and other supporting documentation, and related types of records, reports, files, and materials, which are associated with individuals who are claimants under the Federal Tort Claims Act (FTCA), or the Military Personnel and Civilian Employees' Claims Act, or who assert a tort claim against an FCC employee.³

RECORD SOURCE CATEGORIES:

The sources for the information in this system of records include, but are not limited to:

¹ OGC reviews tort claims made against the FCC. Claimants should complete a Standard Form 95, Claim for Damage, Injury or Death, and are encouraged to submit the form by email to tort.claims@fcc.gov. If email is impracticable, claimants may also submit a claim by US Mail as noted on the FCC's webpage at: www.fcc.gov.

² Information in this system may also be covered by the FCC/OMD-29, Motor Vehicle Maintenance Program, system of records, See <https://www.fcc.gov/general/privacy-act-information#systems>.

³ Ibid.

- (a) Individuals filing such claims;
- (b) Individuals who are the subjects of such claims;
- (c) Attorneys or representatives of the claimants and the subjects of the claims;
- (d) Communication between FCC bureaus and offices (B/Os); and
- (e) Investigative materials and related documentation and decisions involved in appeals, amendments, and litigation concerning such claims.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside the FCC as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows.

1. Adjudication and Litigation – To disclose information to the Department of Justice (DOJ), or to other administrative or adjudicative bodies before which the FCC is authorized to appear, when: (a) the FCC or any component thereof; (b) any employee of the FCC in his or her official capacity; (c) any employee of the FCC in his or her individual capacity where the DOJ or the FCC have agreed to represent the employee; or (d) the United States is a party to litigation or has an interest in such litigation, and the use of such records by the DOJ or the FCC is deemed by the FCC to be relevant and necessary to the litigation.
2. Law Enforcement and Investigation – To disclose pertinent information to the appropriate Federal, State, local, or tribal agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the FCC becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.
3. Congressional Inquiries – To provide information to a Congressional office from the record of an individual in response to an inquiry from that Congressional office made at the written request of that individual.

4. Government-wide Program Management and Oversight – To disclose information to the National Archives and Records Administration (NARA) for use in its records management inspections; to the Government Accountability Office (GAO) for oversight purposes (including determinations concerning relief of accountable personnel from liability for losses of public funds and related fiscal matters); to the U.S. Treasury to disburse payment determination information to pay a claimant once the compensation decision has been reached; to the Department of Justice (DOJ) to obtain that department’s advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or to the Office of Management and Budget (OMB) to obtain that office’s advice regarding obligations under the Privacy Act.
5. Breach Notification – To appropriate agencies, entities, and persons when: (a) the Commission suspects or has confirmed that there has been a breach of data maintained in the system of records; (b) the Commission has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission’s efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.
6. Assistance to Federal Agencies and Entities – To another Federal agency or Federal entity, when the Commission determines that information from this system is reasonably necessary to assist the recipient agency or entity in: (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.
7. For Non-Federal Personnel – To disclose information to non-Federal personnel, i.e., contractors, performing or working on a contract in connection with private or civil injury claims and/or IT services for the Federal Government, who may require access to this system of records.
8. Non-FCC Individuals and Organizations – To disclose information to individuals, including former

FCC employees, and organizations, in the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

REPORTING TO A CONSUMER REPORTING AGENCY:

In addition to the routine uses cited above, the Commission may share information from this system of records with a consumer reporting agency regarding an individual who has not paid a valid and overdue debt owed to the Commission, following the procedures set out in the Debt Collection Act, 31 U.S.C. 3711(e).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Information in this system includes both paper and electronic records. The paper records, documents, and files are maintained in file cabinets that are located in OMD and OGC, and in the bureaus and offices (B/Os) of the FCC staff who provide the responses to such claims. The electronic records, files, and data are stored in the FCC's computer network.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by the name of the individual who filed the private or civil injury claims.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with the agency records control schedule N1-173-91-001, Item 6, approved by the National Archives and Records Administration (NARA).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The electronic records, files, and data are stored within FCC accreditation boundaries and maintained in a database housed in the FCC's computer network databases. Access to the electronic files is restricted to authorized OMD and OGC employees and contractors, and to employees and contractors in other B/Os who require access, as required, for specific purposes related to the private or civil injury claim processes; and to IT staff, contractors, and vendors who maintain the IT networks and services. Other FCC employees and contractors may be granted access on a need-to-know basis.

The FCC's electronic files and records are protected by the FCC and third-party privacy safeguards, a comprehensive and dynamic set of IT safety and security protocols and features that are designed to meet

all Federal IT privacy standards, including those required by the Federal Information Security Modernization Act of 2014 (FISMA), the Office of Management and Budget (OMB), and the National Institute of Standards and Technology (NIST).

Paper records (e.g., SF Form 95 and related claims' documents and materials) are kept in file cabinets in the OMD and OGC office suites. The file cabinets containing these paper records are maintained in non-public rooms in the OMD, OGC, and B/O suites. The file cabinets are locked at the end of the day, or when not in use. Access to these office suites is through card-coded doors. The access points to these offices are also monitored. Only authorized OMD, OGC, and B/O supervisors and staff who are responsible for responding to these claims have access to these paper records. Other FCC employees and contractors in other B/Os may be granted access as required, on a temporary or limited basis for specific purposes related to the private or civil injury claim processes. The same storage and security measures apply to these loaned documents.

RECORDS ACCESS PROCEDURES:

Individuals wishing to request access to and/or amendment of records about them should follow the Notification Procedure below.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request an amendment of records about them should follow the Notification Procedure below.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about them may do so by writing to Leslie F. Smith, Privacy Manager, Information Technology, Federal Communications Commission, Washington, DC 20554, or e-mail *Leslie.Smith@fcc.gov* or *Privacy@fcc.gov*.

Individuals requesting access must also comply with the FCC's Privacy Act regulations regarding verification of identity to gain access to records as required under 47 CFR Part 0, Subpart E.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

The FCC previously gave full notice of FCC/OMD-31, Private or Civil Injury Claimants (formerly: FCC/OGC-6, Private or Civil Injury Claimants), by publication in the **Federal Register** on April 5, 2006 (71 Fed. Reg. 17234, 17245).

FEDERAL COMMUNICATIONS COMMISSION.

Marlene Dortch,
Secretary.

[FR Doc. 2020-18888 Filed: 8/26/2020 8:45 am; Publication Date: 8/27/2020]